

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

JIMMY LEVI GAUTHIER,

Plaintiff,

v.

GARRETT HUNT, et. al.,

Defendants.

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Case No. CIV-20-1153-J

ORDER

This matter was referred for initial proceedings to United States Magistrate Judge Gary M. Purcell consistent with 28 U.S.C. § 636(b)(1)(B), (C) and currently pending is his Fourth Supplemental Report and Recommendation. (Fourth Supp. Rep. and Rec.) [Doc. No. 105].

On February 3, 2021, Plaintiff filed an Amended Complaint asserting claims under the First, Fourth, Eighth, and Fourteenth Amendments, as well as two state law claims, against sixteen Defendants. [Doc. No. 33]. The Court thereafter dismissed all except (1) Plaintiff's Fourteenth Amendment claim based on failure to protect/intervene against Defendant Guthrie; (2) a state law claim of abuse of process against Defendants Vann and Estes; (3) a state law claim of negligence against Defendant McKinney; and, (4) a Fourteenth Amendment claim against Defendant Martinez based upon inadequate medical care. [Doc. Nos. 37, 61].

These remaining Defendants filed motions to dismiss and/or motions for summary judgment [Doc. Nos. 89, 90, 93, 94] and Plaintiff did not respond. In his Fourth Supplemental Report and Recommendation, Judge Purcell recommends the Court (1) grant Defendants Guthrie and Martinez's motions for summary judgment [Doc. Nos. 90, 93] based on Plaintiff's failure to exhaust his administrative remedies and (2) decline supplemental jurisdiction over Plaintiff's state

law claims, thus rendering moot Defendants Vann, Estes, and McKinney's dispositive motions [Doc. Nos. 89, 94]. *See* Fourth Supp. Rep. and Rec., *passim*.

Despite being cautioned that he must file any objection no later than December 13, 2021, *see id.* at 8, Plaintiff did not object and has waived his right to appellate review of the factual and legal issues addressed in the Fourth Supplement Report and Recommendation. *See Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

Accordingly, the Court ADOPTS the Fourth Supplemental Report and Recommendation [Doc. No. 105], GRANTS Defendants Guthrie and Martinez's motions for summary judgment [Doc. Nos. 90, 93], DECLINES supplemental jurisdiction over Plaintiff's state law claims, and DENIES Defendants Vann, Estes, and McKinney's motions to dismiss and/or motions for summary judgment [Doc. Nos. 89, 94] as MOOT.

A separate judgment will issue.

IT IS SO ORDERED this 27th day of December, 2021.


BERNARD M. JONES
UNITED STATES DISTRICT JUDGE